

### **REMARKS**

Reconsideration of the application and allowance of the pending claims are respectfully requested based upon the remarks below. By this Amendment, claim 16 is amended, and new claims 20 and 21 are added. Accordingly, claims 1-21 are pending in this application. No new matter is presented in this Amendment.

#### **Rejections under 35 USC §101**

Claim 16 stands rejected under 35 USC §101 because the claimed invention is directed to non-statutory subject matter. Claim 16 is rewritten to be in compliance with commonly accepted US patent practice. Withdrawal of the rejection under 35 USC §101 is respectfully requested.

#### **Rejections under 35 USC §112**

Claim 6 stands rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Patent and Trademark Office (PTO) asserts that the phrase "connected element analysis," as recited in claim 6 is not described in the specification, nor is it well known to one of ordinary skill in the art. This rejection is respectfully traversed.

Compliance with 35 U.S.C. 112, second paragraph, involves a determination of whether the claim apprises one of ordinary skill in the art of the claim scope, i.e., whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Applicants believe that claim 6 reasonably set out and circumscribe the particular subject matter.

In paragraph [0026] of the specification, Applicants disclose an "inverse connected element analysis" technique that discovers large blocks of white space surrounding the image to produce a "fingerprint" of the white space in an image. Applicants respectfully submit that when read within the context of the entire specification, one of ordinary skill in the art would understand that wherein an "inverse connected element analysis" discovers large blocks of white space, a "connected element analysis" entails analyzing non-white space, i.e., groupings of pixels, to identify speckle and blocks of solid color, as recited in claim 6. Withdrawal of the

rejection of claim 6 is respectfully requested.

### **Rejections under 35 USC §102**

The rejection of claims 1-5, 11-14, and 16-19 under 35 USC §102(e) as being anticipated by Stalcup et al. ("Stalcup")(US 6,741,743) is respectfully traversed based upon the declaration filed under 37 CFR 1.132 filed herewith, wherein the Applicants submit that the subject matter of claim 1 disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention by another. Accordingly, Applicants respectfully submit that Stalcup is unavailable for rejecting the instant application under either 35 U.S.C. 102 or 35 U.S.C. 103. Withdrawal of the rejection is respectfully requested.

### **Rejections under 35 USC §103**

Claims 6-10 are rejected under 35 USC §103(a) as being unpatentable over Stalcup et al. (US 6,741,743) in view of one or more of Chen et al. (US 5,745,600), Messer et al. (US 2004/0190773), and Krtolica (US 5,719,959). These rejections are respectfully traversed.

Based upon the argument presented above, Stalcup is unavailable as a reference in either a 102 or 103 rejection. Accordingly, claims 7-10 are patentable over the applied art. Withdrawal of the rejection under 35 USC §103(a) is respectfully requested.

### **New Claims**

Applicants have added new claims 20 and 21. New claim 20 depends from claim 1 and recites the subject matter disclosed in paragraph [0025] of the specification, wherein comparing compensated images against images in a database includes manipulating frequency domain representations of images, performing an inverse fast Fourier transformation, and applying a threshold test against the resulting similarity matrix. The applied art fails to disclose at least these features.

New claim 21 is based upon the subject matter of claim 1 and claim 7, and is patentable over the applied art at least based upon the Declaration filed herewith that disqualifies Stalcup as a reference, as well as under 35 U.S.C. 103(c).

**Conclusion**

All objections and rejections have been addressed. In view of the foregoing, Applicants respectfully submit that the application is in condition for allowance and favorable reconsideration and prompt allowance of claims 1-21 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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**Date: October 25, 2007**  
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